

JAMES A. LASSART (SBN 40913)
 ADRIAN G. DRISCOLL (SBN 95468)
 SPENCER C. MARTINEZ (SBN 206337)
 ROPERS, MAJESKI, KOHN & BENTLEY
 201 Spear Street, Suite 1000
 San Francisco, CA 94105
 Telephone: (415) 543-4800
 Facsimile: (415) 972-6301

Attorneys for Defendants
 ABERCROMBIE & FITCH and MELISSA
 BASFIELD

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

KRISTINA ENNIX SLAUGHTER and
 MITCHELL SLAUGHTER,

Plaintiffs,

v.

CITY OF EMERYVILLE, EMERYVILLE
 POLICE DEPARTMENT, E. WHITE
 (#307) and S. ANDRETICH (#339),
 individually and in their official capacities;
 VICTORIA'S SECRET, CLAUDIA
 SOTO, ABERCROMBIE & FITCH, and
 MELISSA BASFIELD,

Defendants.

CASE NO. C08-01552-PJH

**ORDER GRANTING MOTION TO DISMISS
 BY DEFENDANTS ABERCROMBIE &
 FITCH AND MELISSA BASFIELD IN PART
 WITH PREJUDICE AND IN PART WITH
 LEAVE TO AMEND**

DATE: June 4, 2008
 TIME: 9:00 a.m.
 COURTROOM: 3, 17th Floor
 JUDGE: Hon. Phyllis J. Hamilton

The motion by defendants ABERCROMBIE & FITCH and MELISSA BASFIELD
 ("Defendants") for an order dismissing the complaint against them without leave to amend
 pursuant to Federal Rule of Civil Procedure 12(b)(6) came on regularly for hearing before this
 Court on June 4, 2008, the Honorable Phyllis J. Hamilton presiding. Plaintiffs appeared by
 counsel Jivaka Candappa of the Law Office of Jivaka Candappa. Defendants appeared by
 counsel James A. Lassart of Ropers, Majeski, Kohn & Bentley.

This Court, having considered the papers submitted and the oral arguments of counsel,
 and good cause appearing:

Defendants' motion for an order dismissing the complaint as against them is GRANTED

with prejudice in part and with leave to amend in part.

IT IS ORDERED THAT the Fifth Cause of Action (California Government Code § 815.2 and Respondeat Superior Liability) as alleged against Abercrombie & Fitch; the Ninth Cause of Action (Invasion of Privacy) as alleged against Melissa Basfield and Abercrombie & Fitch; and the Thirteen Cause of Action (Negligence and Negligence Per Se) as alleged against Melissa Basfield and Abercrombie & Fitch are all DISMISSED with Prejudice.

IT IS FURTHER ORDERED THAT the Eighth Cause of Action (Intentional Infliction of Emotion Distress) as alleged against Melissa Basfield and Abercrombie & Fitch; and the Tenth Cause of Action (Slander Per Se) as alleged against Melissa Basfield and Abercrombie & Fitch are both DISMISSED with Leave to Amend. Leave to amend is GRANTED on the basis that Plaintiffs can in good faith allege that Defendant Basfield made a published statement that Plaintiffs were involved in criminal activity.

Dated: June ____, 2008

HON. PHYLLIS J. HAMILTON
United States District Court Judge

APPROVED AS TO FORM:

/s/ Jivaka Candappa
JIVAKA CANDAPPA
LAW OFFICE OF JIVAKA CANDAPPA
Attorneys for Plaintiffs
KRISTINA ENNIX SLAUGHTER and
MITCHELL SLAUGHTER

June 9, 2008
Dated